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**Department of Health and Family Services**

DIVISION OF CHILDREN AND FAMILY SERVICES

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April 27, 1999

BRL CW Memo - 99-02

TO: Child Care Institution Licensees  
Group Foster Home Licensees  
Shelter Care Facility Licensees

FROM: Patty Hammes, Director *Patty Hammes*  
Bureau of Regulation and Licensing

RE: **ELECTRONIC WARNING OR MONITORING DEVICES IN RESIDENTIAL  
CARE FACILITIES**

The attached regulatory policy provides clarification and guidance regarding the process and criteria for approval for use of electronic warning or monitoring devices in licensed children's licensed residential care facilities.

Should you have any questions, please contact your regional licensing specialist.

**Attachment**

- c Licensing Chiefs/Specialists/Program Specialists
- DCFS Bureau Directors
- Don Dorn, BRL
- John Grace, WAFCA
- Shelley Hagan, DOC/DJC
- Jim Kramlinger, DOC/DJC
- Mark Mitchell, BPP
- Verleen Orr, BPP
- John Ross, DOC/DJC
- Other Interested Parties

Department of Health and Family Services  
Division of Children and Family Services  
Bureau of Regulation and Licensing  
DCFS - 125 (Rev. 7/22/96)

Decision # CW 99-02  
Topic: Electronic Monitoring  
and Warning Devices

Regulation Area (Check): ☒ CCI ☒ Group Home ☐ CPA/FC ☐ CPA/Adoption  
☒ Shelter Care ☐ Group Day Care ☐ Family Day Care ☐ Day Camp ☐ ALL

Rule Citation: See below. Statute Citation: s. 51.61 (1) (o) and (m)

(Check one): ☒ Policy ☐ Rule Interpretation ☐ Procedure ☐ Other

Issue: Are electronic monitoring devices allowed in residential care programs?

Decision: The attached regulatory policy seeks to provide guidance in regulatory approval with regard to the type, location and number of devices installed in residential care facilities. The administrative rule code cites for this policy include (in addition to the statutory cite above):

ss. HSS 52.01 and HSS 52.04 (6) (a) 4.  
tt. HSS 57.01  
s. HSS 59.01

Decision Level: ☒ BRL ☐ AO

☐ Cross Reference \_\_\_\_\_  
☐ Legal Opinion \_\_\_\_\_  
☐ Numbered Memo \_\_\_\_\_  
☐ Other \_\_\_\_\_

Signature: Patty Hammes  
Patty Hammes, Director  
Bureau of Regulation and Licensing

Date: 8/20/99



## Acceptable Electronic Warning or Monitoring Devices

The following devices are not meant or intended to replace staff supervision practices, but rather are allowed as a supplement to careful staff supervision.

The intent for the use of these devices is to give residents a sense of security and safety in their living environment or as a therapeutically required measure. No device installed may monitor conversations of residents.

Devices installed should be as inconspicuous and as limited in scope as possible.

The following should **first have review and approval of the regional licensing specialist before their installation:**

1. Light or audio alarms may be installed on bedroom doors or windows or doors or windows of other rooms that are off limits to residents but not locked such as storage areas and may be installed on exit doors.
2. Video monitoring cameras (without videotaping and sound monitoring) may only be installed as a therapeutic treatment measure on an individual basis for reasons specified in the person's treatment record. Therapeutic reasons could include for example, a person with suicidal ideations or sexual perpetration history and other similar high-risk behaviors. (Conceivably, a monitoring camera could be installed in a unit hallway with doors leading to bedrooms where the unit may serve sexual perpetrators or sexually active persons or person having severe behavioral problems and the nature of the population served requires need for such surveillance and is documented individually in each person's treatment plan.) Any monitoring camera installed should be installed so as not to be intrusive and, if located in hallways or other open areas fixed near the ceiling. Video monitoring cameras may not in any way be installed in bedrooms or bathrooms or be able to view into resident bedrooms or bathrooms.

Video monitors should be located in staff offices or in "staff access only" areas.

Note: HFS 94 PATIENT RIGHTS. HFS 94 Patients Rights applies to any child who receives services or treatment for alcohol or drug abuse, a developmental disability, or for a mental illness. Placement of monitoring devices is subject to HFS Patient's Rights. Section HFS 94.18 describes the right not to be filmed or taped and is more specifically defined in s. 51.61 (1) (o), Stats. Section HFS 94.34 regarding a humane psychological environment and s. 51.61 (1) (m), Stats., describes the right to privacy as part of this right.

A recent administrative law judge hearing decision held that monitoring cameras unless specifically therapeutically indicated, represent a violation of a person's right to privacy. This opinion extended that right to include surveillance camera monitoring outside of a facility as well.

Note: Division of Hearing and Appeals decision FOS-70/22308 as it related to foster care in part states, "When looking at the foster care code provisions, it is not difficult to see that the right to privacy is persuasive." ".....Based upon the above, I find that foster children do have a basic right of privacy that is being invaded by the presence of surveillance cameras. While cameras only outside the house would be less intrusive as the expectation of privacy is less, it still is problematic based on the above discussion. The right to privacy is not an absolute right in that there are other considerations to balance. For example, a child with severe behavior or medical problems that are clearly documented may require a higher level of monitoring. However, based on the hearing record, that is not the situation here."

3. Motion detectors including laser sensing devices may be installed anywhere on the licensed premises.

### **Magnetic Door Locks – CCIs and Shelter Care Only**

Magnetic doorlocks may be installed in CCIs or shelter care facility **buildings having 9 or more residents**, if written approval is first received from the Department of Commerce (formerly ILHR) and their installation meets the attached provisions.

### **Magnetic Door Lock Regulatory Policy -**

### **Magnetic door locks are only allowed in buildings of 9 or more**

Magnetic door locks may be used, only if the following conditions are met:

3 The facility must first have Department of Commerce (formerly ILHR) and DHFS licensing approval before installing.

3 Where the building is dually licensed as a CBRF and another type of residential license, the installation of magnetic door locks must have prior Division of Supportive Living approval and DCFS approval, and if the total number of persons in care is 9 or more, Department of Commerce (ILHR) approval in accordance with ILHR 51.15 (3) (f) 2. a.

3 The magnetic door locks are not installed in buildings used to house residents who are unable to physically or mentally take independent action. (Door alarms may be installed instead.)

3 Magnetic door locks are installed only on exterior exit doors (that is doors leading directly to the outside) and not serving as the main entrance or exit door to the facility.

For any floor level above the ground floor level leading to grade, there must be two exits on that floor level of which only one exit door may have magnetic door locks installed.



3 The magnetic door lock is not of a type of system where the magnetic door locks unlock only after entering a pass code into a touch pad.

3 The magnetic door lock installation meets ILHR 51.15 (3) (f) 1. and 2. as follows:

- a) Automatically unlock upon activation of either a sprinkler system, fire alarm system or smoke detection system.
- b) Automatically unlock upon loss of power controlling the locking mechanism.
- c) Automatically unlock after initiating an irreversible process that will release the lock within 15 seconds whenever a force of not more than 15 pounds of pressure is continuously applied to the door knob, handle, or panic bar or other type of releasing device for a period of not more than 3 seconds.
- d) The magnetic door lock system activates an audible alarm in the vicinity of the door upon release or unlocking of the door.
- e) The magnetic door lock system requires the manual relocking of such doors.
- f) The interior side of the exit door having a magnetic door lock has a sign adjacent to the locking device indicating how the door may be opened.
- g) Regular testing of magnetic door locks is conducted in accordance with required facility fire drills and fire safety inspections.